Montana Legislative History

Chapter: 173 Session L: 1993
Bill Number: 270 Senate

Checklist of Bill History

- History and Final Status Sheet ☑
- Introduced Bill ☑
- Fiscal Note ☑
- Third Reading Bill ☐
- Final Version of Bill ☑

House	Senate
Committee: Labor & Employment Relations	Committee: Labor & Employment Relations
Hearing Date(s): 03/04/1993	Hearing Date(s): 02/09/1993
Committee Report: 03/06/1993	Committee Report: 02/10/1993

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: S.K. Marshall

Date: 1/10/2024

Notes:

SENATE BILL NO. 270

INTRODUCED BY KEATING, GILBERT
BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

IN THE SENATE

JANUARY 27, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS.
	FIRST READING.
FEBRUARY 10, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 11, 1993	PRINTING REPORT.
FEBRUARY 12, 1993	SECOND READING, DO PASS.
FEBRUARY 13, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS.
	FIRST READING.
MARCH 6, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 10, 1993	SECOND READING, CONCURRED IN.
MARCH 12, 1993	THIRD READING, CONCURRED IN. AYES, 87; NOES, 10.
MARCH 13, 1993	RETURNED TO SENATE.

IN THE SENATE

MARCH 15, 1993	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

LC 0621/01

INTRODUCED BY Smith BILL NO. 270

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE EMPLOYMENT SECURITY ACCOUNT; AUTHORIZING THE DEPARTMENT OF LABOR AND INDUSTRY TO TRANSFER UNAPPROPRIATED FUNDS IN THE EMPLOYMENT SECURITY ACCOUNT TO THE UNEMPLOYMENT INSURANCE FUND; AUTHORIZING THE DEPARTMENT OF LABOR AND INDUSTRY TO TRANSFER MONEY BETWEEN FUND TYPES; AMENDING SECTION 39-51-404, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-51-404, MCA, is amended to read:

"39-51-404. **Administrative expenses.** (1) Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States pursuant to section 903 of the Social Security Act, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this chapter pursuant to a specific appropriation by the legislature, ~~provided that~~ if the expenses are incurred and the money is requisitioned after the enactment of an appropriation law ~~which~~ that:

(a) specifies the purposes for which such the money is appropriated and the amounts appropriated therefor;

(b) limits the period within which such the money may be expended to a period ending not more than 2 years after the date of the enactment of the appropriation law; and

(c) limits the amount ~~which~~ that may be used during any 12-month period beginning on July 1 and ending on the next June 30 to an amount ~~which does not exceed~~ not exceeding the amount by which the aggregate of the amounts credited to the account of this state pursuant to section 903 of the Social Security Act, as amended, during the same 12-month period and the 34 preceding 12-month periods exceeds the aggregate of the amounts used pursuant to this section and charged against the amounts credited to the account of this state during any of such the 35 12-month periods.

(2) For the purposes of this section, amounts used during any such 12-month period ~~shall~~ must be charged against equivalent amounts ~~which~~ that were first credited and ~~which~~ that are not already so charged, except that no an amount used for administration during any such 12-month period may not be charged against any amount credited during such a 12-month period earlier than the 34th preceding such period. Money requisitioned for the payment of expenses of administration pursuant to this section ~~shall~~ must be deposited in the unemployment insurance administration account but, until expended, ~~shall~~ must remain a part of the

unemployment insurance fund.

(3) The department shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. If any money so deposited is for any reason not to be expended for the purpose for which it was appropriated or if it remains unexpended at the end of the period specified by the law appropriating such the money, it shall must be withdrawn and returned to the secretary of the treasury of the United States for credit to this state's account in the unemployment trust fund.

(4) ~~Beginning with the third quarter of 1983, an~~ An assessment equal to .1% of all taxable wages provided for in 39-51-1108 and .05% of total wages paid by employers not covered by an experience rating must be levied against and paid by all employers ~~and may be used by the department for administrative purposes~~. All ~~such~~ assessments and investment income must be deposited in ~~the unemployment insurance administration account provided for in 39-51-406~~ the employment security account provided for in [section 2]. ~~and used as appropriated by the legislature. Any assessments deposited to the unemployment insurance administration account, including investment income, that are not appropriated by the legislature must be transferred to the unemployment trust fund account provided for in 39-51-402.~~"

NEW SECTION. **Section 2.** Employment security account.

(1) There is an account created in the state special revenue fund called the employment security account.

(2) The department may transfer funds from the account to the unemployment insurance fund account provided for in 39-51-402 upon receiving approval from the budget director that the transfer will not decrease the money in the account below the level appropriated by the legislature to provide employment office programs.

(3) The department may transfer appropriation authority in the employment office program between the federal special revenue and the state special revenue fund types if the change in the federal revenue as compared to the department's legislative appropriation does not differ by more than 10%.

NEW SECTION. **Section 3.** Codification instruction. [Section 2] is intended to be codified as an integral part of Title 39, chapter 51, part 4, and the provisions of Title 39, chapter 51, part 4, apply to [section 2].

NEW SECTION. **Section 4.** Effective date. [This act] is effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15
In compliance with a written request, there is hereby submitted a Fiscal Note for SB0270, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act establishing the employment security account, authorizing the Department of Labor and Industry to transfer unappropriated funds in the employment security account to the unemployment insurance fund, and authorizing the Department of Labor and Industry to transfer money between fund types.

ASSUMPTIONS:

1. The transfer of funds between accounts and fund types will have no specific budget or fiscal impact due to passage of this bill.

FISCAL IMPACT: No fiscal impact.

Dave Lewis 2.2.93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Keating 2/3/93
THOMAS F. KEATING, PRIMARY SPONSOR DATE

Fiscal Note for SB0270, as introduced

SB 270

APPROVED BY COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

SENATE BILL NO. 270

INTRODUCED BY KEATING, GILBERT

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE EMPLOYMENT SECURITY ACCOUNT; AUTHORIZING THE DEPARTMENT OF LABOR AND INDUSTRY TO TRANSFER UNAPPROPRIATED FUNDS IN THE EMPLOYMENT SECURITY ACCOUNT TO THE UNEMPLOYMENT INSURANCE FUND; AUTHORIZING THE DEPARTMENT OF LABOR AND INDUSTRY TO TRANSFER MONEY BETWEEN FUND TYPES; AMENDING SECTION 39-51-404, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-51-404, MCA, is amended to read:

"39-51-404. **Administrative expenses.** (1) Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States pursuant to section 903 of the Social Security Act, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this chapter pursuant to a specific appropriation by the legislature, ~~provided-that~~ if the expenses are incurred and the money is requisitioned after the enactment of an appropriation law ~~which~~ that:

(a) specifies the purposes for which ~~such~~ the money is appropriated and the amounts appropriated ~~therefor~~;

(b) limits the period within which ~~such~~ the money may be expended to a period ending not more than 2 years after the date of the enactment of the appropriation law; and

(c) limits the amount ~~which~~ that may be used during any 12-month period beginning on July 1 and ending on the next June 30 to an amount ~~which-does-not-exceed~~ not exceeding the amount by which the aggregate of the amounts credited to the account of this state pursuant to section 903 of the Social Security Act, as amended, during the same 12-month period and the 34 preceding 12-month periods exceeds the aggregate of the amounts used pursuant to this section and charged against the amounts credited to the account of this state during any of ~~such~~ the 35 12-month periods.

(2) For the purposes of this section, amounts used during any ~~such~~ 12-month period ~~shall~~ must be charged against equivalent amounts ~~which~~ that were first credited and ~~which~~ that are not already so charged, except that ~~no~~ an amount used for administration during any ~~such~~ 12-month period may not be charged against any amount credited during ~~such~~ a 12-month period earlier than the 34th preceding ~~such~~ period. Money requisitioned for the payment of expenses of administration pursuant to this section ~~shall~~ must be deposited in the unemployment insurance administration account but, until expended, ~~shall~~ must remain a part of the

unemployment insurance fund.

(3) The department shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. If any money so deposited is for any reason not to be expended for the purpose for which it was appropriated or if it remains unexpended at the end of the period specified by the law appropriating such the money, it ~~shall~~ must be withdrawn and returned to the secretary of the treasury of the United States for credit to this state's account in the unemployment trust fund.

(4) ~~Beginning with the third quarter of 1983,~~ an An assessment equal to .1% of all taxable wages provided for in 39-51-1108 and .05% of total wages paid by employers not covered by an experience rating must be levied against and paid by all employers ~~and may be used by the department for administrative purposes~~. All such assessments and investment income must be deposited in ~~the unemployment insurance administration account provided for in 39-51-406~~ the employment security account provided for in [section 2]. ~~and used as appropriated by the legislature. Any assessments deposited to the unemployment insurance administration account, including investment income, that are not appropriated by the legislature must be transferred to the unemployment trust fund account provided for in 39-51-402.~~"

NEW SECTION. **Section 2.** Employment security account.

(1) There is an account created in the state special revenue fund called the employment security account.

(2) The department may transfer funds from the account to the unemployment insurance fund account provided for in 39-51-402 upon receiving approval from the budget director that the transfer will not decrease the money in the account below the level appropriated by the legislature to provide employment office programs.

(3) The department may transfer appropriation authority in the employment office program between the federal special revenue and the state special revenue fund types ~~if the change in the federal revenue as compared to the department's legislative appropriation does not differ by more than 10%~~.

NEW SECTION. **Section 3.** Codification instruction. [Section 2] is intended to be codified as an integral part of Title 39, chapter 51, part 4, and the provisions of Title 39, chapter 51, part 4, apply to [section 2].

NEW SECTION. **Section 4.** Effective date. [This act] is effective July 1, 1993.

-End-

SENATE BILL NO. 270

INTRODUCED BY KEATING, GILBERT

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE EMPLOYMENT SECURITY ACCOUNT; AUTHORIZING THE DEPARTMENT OF LABOR AND INDUSTRY TO TRANSFER UNAPPROPRIATED FUNDS IN THE EMPLOYMENT SECURITY ACCOUNT TO THE UNEMPLOYMENT INSURANCE FUND; AUTHORIZING THE DEPARTMENT OF LABOR AND INDUSTRY TO TRANSFER MONEY BETWEEN FUND TYPES; AMENDING SECTION 39-51-404, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-51-404, MCA, is amended to read:

"39-51-404. Administrative expenses. (1) Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States pursuant to section 903 of the Social Security Act, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this chapter pursuant to a specific appropriation by the legislature, provided-that if the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which that:

(a) specifies the purposes for which such the money is appropriated and the amounts appropriated therefor;

(b) limits the period within which such the money may be expended to a period ending not more than 2 years after the date of the enactment of the appropriation law; and

(c) limits the amount which that may be used during any 12-month period beginning on July 1 and ending on the next June 30 to an amount which-does-not-exceed not exceeding the amount by which the aggregate of the amounts credited to the account of this state pursuant to section 903 of the Social Security Act, as amended, during the same 12-month period and the 34 preceding 12-month periods exceeds the aggregate of the amounts used pursuant to this section and charged against the amounts credited to the account of this state during any of such the 35 12-month periods.

(2) For the purposes of this section, amounts used during any such 12-month period shall must be charged against equivalent amounts which that were first credited and which that are not already so charged, except that no an amount used for administration during any such 12-month period may not be charged against any amount credited during such a 12-month period earlier than the 34th preceding such period. Money requisitioned for the payment of expenses of administration pursuant to this section shall must be deposited in the unemployment insurance administration account but, until expended, shall must remain a part of the

THIRD READING

unemployment insurance fund.

(3) The department shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. If any money so deposited is for any reason not to be expended for the purpose for which it was appropriated or if it remains unexpended at the end of the period specified by the law appropriating such the money, it ~~shall~~ must be withdrawn and returned to the secretary of the treasury of the United States for credit to this state's account in the unemployment trust fund.

(4) ~~Beginning with the third quarter of 1983,~~ an An assessment equal to .1% of all taxable wages provided for in 39-51-1108 and .05% of total wages paid by employers not covered by an experience rating must be levied against and paid by all employers ~~and may be used by the department for administrative purposes~~. All such assessments and investment income must be deposited in ~~the unemployment insurance administration account provided for in 39-51-406~~ the employment security account provided for in [section 2]. ~~and used as appropriated by the legislature. Any assessments deposited to the unemployment insurance administration account, including investment income, that are not appropriated by the legislature must be transferred to the unemployment trust fund account provided for in 39-51-402.~~"

NEW SECTION. **Section 2.** Employment security account.

(1) There is an account created in the state special revenue fund called the employment security account.

(2) The department may transfer funds from the account to the unemployment insurance fund account provided for in 39-51-402 upon receiving approval from the budget director that the transfer will not decrease the money in the account below the level appropriated by the legislature to provide employment office programs.

(3) The department may transfer appropriation authority in the employment office program between the federal special revenue and the state special revenue fund types ~~if the change in the federal revenue as compared to the department's legislative appropriation does not differ by more than 10%~~.

NEW SECTION. **Section 3.** Codification instruction. [Section 2] is intended to be codified as an integral part of Title 39, chapter 51, part 4, and the provisions of Title 39, chapter 51, part 4, apply to [section 2].

NEW SECTION. **Section 4.** Effective date. [This act] is effective July 1, 1993.

-End-

SENATE BILL NO. 270

INTRODUCED BY KEATING, GILBERT

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE EMPLOYMENT SECURITY ACCOUNT; AUTHORIZING THE DEPARTMENT OF LABOR AND INDUSTRY TO TRANSFER UNAPPROPRIATED FUNDS IN THE EMPLOYMENT SECURITY ACCOUNT TO THE UNEMPLOYMENT INSURANCE FUND; AUTHORIZING THE DEPARTMENT OF LABOR AND INDUSTRY TO TRANSFER MONEY BETWEEN FUND TYPES; AMENDING SECTION 39-51-404, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-51-404, MCA, is amended to read:

"39-51-404. Administrative expenses. (1) Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States pursuant to section 903 of the Social Security Act, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this chapter pursuant to a specific appropriation by the legislature, ~~provided that~~ if the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which that:

(a) specifies the purposes for which such the money is appropriated and the amounts appropriated therefor;

(b) limits the period within which such the money may be expended to a period ending not more than 2 years after the date of the enactment of the appropriation law; and

(c) limits the amount which that may be used during any 12-month period beginning on July 1 and ending on the next June 30 to an amount which ~~does not exceed~~ not exceeding the amount by which the aggregate of the amounts credited to the account of this state pursuant to section 903 of the Social Security Act, as amended, during the same 12-month period and the 34 preceding 12-month periods exceeds the aggregate of the amounts used pursuant to this section and charged against the amounts credited to the account of this state during any of such the 35 12-month periods.

(2) For the purposes of this section, amounts used during any such 12-month period ~~shall~~ must be charged against equivalent amounts which that were first credited and which that are not already so charged, except that no an amount used for administration during any such 12-month period may not be charged against any amount credited during such a 12-month period earlier than the 34th preceding such period. Money requisitioned for the payment of expenses of administration pursuant to this section ~~shall~~ must be deposited in the unemployment insurance administration account but, until expended, ~~shall~~ must remain a part of the

Montana Legislative Council

REFERENCE BILL

unemployment insurance fund.

(3) The department shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. If any money so deposited is for any reason not to be expended for the purpose for which it was appropriated or if it remains unexpended at the end of the period specified by the law appropriating such the money, it ~~shall~~ must be withdrawn and returned to the secretary of the treasury of the United States for credit to this state's account in the unemployment trust fund.

(4) ~~Beginning with the third quarter of 1983,~~ an An assessment equal to .1% of all taxable wages provided for in 39-51-1108 and .05% of total wages paid by employers not covered by an experience rating must be levied against and paid by all employers ~~and may be used by the department for administrative purposes~~. All such assessments and investment income must be deposited in ~~the unemployment insurance administration account provided for in 39-51-406~~ the employment security account provided for in [section 2]. ~~and used as appropriated by the legislature. Any assessments deposited to the unemployment insurance administration account, including investment income, that are not appropriated by the legislature must be transferred to the unemployment trust fund account provided for in 39-51-402.~~"

NEW SECTION. **Section 2.** Employment security account.

(1) There is an account created in the state special revenue fund called the employment security account.

(2) The department may transfer funds from the account to the unemployment insurance fund account provided for in 39-51-402 upon receiving approval from the budget director that the transfer will not decrease the money in the account below the level appropriated by the legislature to provide employment office programs.

(3) The department may transfer appropriation authority in the employment office program between the federal special revenue and the state special revenue fund types ~~if the change in the federal revenue as compared to the department's legislative appropriation does not differ by more than 10%~~.

NEW SECTION. **Section 3.** Codification instruction. [Section 2] is intended to be codified as an integral part of Title 39, chapter 51, part 4, and the provisions of Title 39, chapter 51, part 4, apply to [section 2].

NEW SECTION. **Section 4.** Effective date. [This act] is effective July 1, 1993.

-End-

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Sen. Tom Towe, on February 9, 1993, at 1:03 P.M.

ROLL CALL

Members Present:
Sen. Tom Towe, Chair (D)
Sen. Bill Wilson, Vice Chair (D)
Sen. Gary Aklestad (R)
Sen. Chet Blaylock (D)
Sen. Jim Burnett (R)
Sen. Tom Keating (R)
Sen. J.D. Lynch (D)

Members Excused: None

Members Absent: None

Staff Present: Eddye McClure, Legislative Council
Patricia Brooke, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 256, SB 270
Executive Action: SB 270, SB 256, SB 223

HEARING ON SB 256

Opening Statement by Sponsor:
Sen. Charles Swysgood, Senate District 37, introduced SB 256. He informed the Committee SB 256 bill addresses a situation that occurred during the adoption of SB 383 in July of 1991 when defining an employee in terms of a resident or non-resident of Montana. The definition of a non-resident employee as interpreted by the State Fund resulted in the disallowing of non-resident drivers employees' workers' compensation coverage. Sen. Swysgood said prior to the change in law the coverage for the employees was allowed. Sen. Swysgood stated there will be an amendment offered by the Department of Labor and he is in agreement with the amendment.

Proponents' Testimony:
Mike Micone, Montana Motor Carriers' Association, distributed an

amendment to the Committee(Exhibit #1) and repeated the information that with the adoption of SB 383 in the 52nd Legislature, which defined an employee in the state as a resident or non-resident of the state, changes resulted in disallowing non-resident drivers' employees' workers' compensation coverage. Mr. Micone stated the risks of driving in the Montana are the same regardless of residence. Mr. Micone stated the Montana Motor Carriers' Association is asking the Committee to amend the law to cover non-residence drivers of Montana-based carriers. Mr. Micone submitted written testimony(Exhibit #2).

Jim Murphy, State Fund, stated the amendments submitted by the Montana Motor Carriers' Association allows for an election by the employer, rather than mandated. Secondly, the amendment goes beyond the trucking industry, to other types of industries with similar type problems with non-resident employees they may want to elect to cover under Montana insurance.

George Wood, Executive Secretary, Montana Self-Insurers' Association, rose in support of SB 256 and urged the Committee pass the bill.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:
Sen. Lynch asked Sen. Swysgood if non-resident employees pays a pro-rated amount in other states. Sen. Swysgood replied if a non-resident employee is employed by a Montana carrier, it is unclear if they have to pay premiums in two states. Sen. Swysgood said he would like to see them pay premiums in only one state.

Sen. Lynch asked if an injury which occurred in another state will be covered by the Montana plan. Sen. Swysgood replied the Montana carriers' coverage will apply to an injury in another state.

Sen. Aklestad asked Sen. Swysgood to insert an effective date of July 1. Sen. Swysgood apologized for the oversight and asked the Committee to consider inserting July 1 as the effective date.

Sen. Towe asked Mike Micone what is missing in the law right now that SB 256 is needed. Mr. Micone stated there is a new Section C which discusses a resident of Montana who does not meet the requirements of Section B of the law.

Sen. Towe clarified his understanding of the intent of SB 256 is

to attempt to reach those persons who might be a non-resident but controlled by a resident Montana company. He said the employee who resides outside of Montana, employed by a Montana company, can elect to be covered by Montana insurance. Mr. Micone affirmed this is the intent of SB 256.

Sen. Towe asked George Wood if there existed a void in the law that would allow employers to not elect coverage for employees. Mr. Wood responded SB 256 is not to make employers choose whether or not to elect coverage, but rather to elect that the benefits be Montana benefits.

Sen. Aklestad asked Jim Murphy what the fiscal impact will be. Mr. Murphy responded there will be very little fiscal impact because the employer will have to pay premiums in accordance with the amount of benefits to be paid.

Closing by Sponsor:
Sen. Swysgood closed the hearing by saying SB 256 will potentially bring in to Montana more insurance policies and industry. SB 256 does a good job at addressing a situation created in the last session.

HEARING ON SB 270

Opening Statement by Sponsor:
Sen. Keating, SD 44, Billings, explained the to Committee that SB 270 deals with the unemployment insurance administrative tax, commonly called the "admin tax." The admin tax is .1% of payroll for some and .05% of payroll for those without an experience rating. The tax has to be paid in conjunction with the unemployment insurance tax and goes into the Unemployment Insurance Trust Fund to used for paying unemployment benefits. The UI admin tax has been used to finance the Job Service program, employment relations, legal services and research safety and training. The Legislative Auditor determined the money was flowing into a federal special revenue account for which there was no authority for appropriations. The Legislative Auditor said, in order to have accepted accounting practices, the admin tax would have to flow into a state special revenue account and be kept separate from the federal special revenue account. SB 270 establishes the statutory appropriation into a state special revenue account. Sen. Keating said it is the intention of the legislation that any unused portion of the admin tax beyond a certain level of the fund balance should flow to the Unemployment Insurance Trust Fund. SB 270 gives direction to the Department of Labor, in conjunction with the Office of Budget and Planning, regarding the flow of money from the State Special Revenue Fund into the Unemployment Trust Fund. Sen. Keating said it permits the Legislature to make appropriations of the unused portion of the UI tax through the appropriations process. Sen. Keating said at the present time there is some question whether the Legislature can appropriate federal special revenue. SB 270 will straighten out the confusion.

Proponents' Testimony:
Laurie Eckinger, Department of Labor, informed the Committee Sen. Keating explained the intent of SB 270 completely. The Department of Labor wanted to make sure the language in SB 270 is something everyone understands.

Opponents' Testimony:
None

Informational Testimony:
None

Questions From Committee Members and Responses:
Sen. Blaylock asked Ms. Eckinger if SB 270 is set up exactly the way the Department of Labor would like it to be. Ms. Eckinger answered SB 270 is the result of many people working together to set things up the way the Department of Labor would like.

Sen. Aklestad asked Ms. Eckinger if the admin tax would be a permanent tax. Ms. Eckinger answered she was unaware the admin tax had been imposed temporarily.

Sen. Towe asked Ms. Eckinger if it is the intent of the new fund to use the monies for administrative purposes as authorized by the Department's appropriations. Ms. Eckinger replied in the affirmative. Ms. Eckinger added one of the goals of this legislation is to give the Department authority to shift monies from the Unemployment Insurance Fund within the 10% margin. Ms. Eckinger clarified it is not a new fund being set up, rather it is designating the existing fund previously called a Federal Special Revenue Account in the statute. She said this was incorrect according to general accounting procedures. The fund will now be called a State Special Revenue Account and the money will flow properly into the State Special Revenue.

Sen. Towe stated he was concerned that if there is more than 10% in the difference between federal and state funds SB 270 will not be effective. Sen. Towe proposed an amendment to eliminate the 10% limit.

Closing by Sponsor:
Sen. Keating closed.

EXECUTIVE ACTION ON SB 270

Motion/Vote: Sen. Lynch moved to AMEND SB 270(Exhibit #4). The motion CARRIED UNANIMOUSLY.

Motion/Vote: Sen. Lynch moved SB 270 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 256

Motion/Vote: Sen. Lynch moved to AMEND SB 256(Exhibit #5, part 5). Motion CARRIED UNANIMOUSLY.

Motion/Vote: Sen. Lynch moved to AMEND SB 256(Exhibit #5, part 1-4). Motion CARRIED UNANIMOUSLY.

Motion/Vote: Sen. Lynch moved SB 256 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 223

Discussion: Eddye McClure explained the technical amendments submitted by Senator Bartlett(Exhibit #6, parts 1-3, 5-7).

Motion/Vote: Sen. Blaylock MOVED TO AMEND SB 223. The motion CARRIED UNANIMOUSLY.

Discussion: Sen. Aklestad stated his concern about the language in SB 223 that refers to freight elevators. Chuck Hunter stated the Federal Code has extensive information about freight elevators and SB 223 could include a reference to the Federal Code. Sen. Towe stated language to amend SB 223 in reference to freight elevators(Exhibit #6, part 4).

Motion/Vote: Sen. Keating moved to AMEND SB 223(Exhibit #6, part 4). The motion CARRIED UNANIMOUSLY.

Motion/Vote: Sen. Keating moved SB 223 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 2:50 P.M.

TOM TOWE, Chair

PATRICIA BROOKE, Secretary

TET/pmb

930209LA.SM1

ROLL CALL

SENATE COMMITTEE LABOR DATE 2/9/93

NAME	PRESENT	ABSENT	EXCUSED
Senator Aklestad	X		
Senator Keating	X		
Senator Blaylock	X		
Senator Lynch	X		
Senator Burnett	X		
Senator Wilson	X		
Senator Towe	X		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

February 10, 1993

MR. PRESIDENT:
We, your committee on Labor and Employment Relations having had under consideration Senate Bill No. 223 (first reading copy -- white), respectfully report that Senate Bill No. 223 be amended as follows and as so amended do pass.

Signed: Thomas E. Towe
Senator Thomas E. "Tom" Towe, Chair

That such amendments read:

1. Page 1, line 11.
Following: "section"
Strike: "13"
Insert: "12"

2. Page 1, line 18.
Page 1, line 20.
Page 3, line 21.
Page 3, line 24.
Page 15, line 1.
Page 15, line 2.
Page 15, line 5.
Page 15, line 7.
Page 15, line 9.
Page 15, line 12.
Page 15, line 14.
Page 15, line 16.
Page 15, line 19.
Page 15, line 21.
Page 16, line 2.
Page 16, line 5.
Following: "through"
Strike: "14"
Insert: "13"

3. Page 7, line 24.
Following: "a"
Strike: remainder of line 24

4. Page 7, line 25.
Following: "apparatus"
Insert: ", except for a freight elevator permitted for use under the child labor provisions of the federal Fair Labor Standards Act of 1938"

m- Amd. Coord.
Sec. of Senate

5. Page 8, lines 16 and 17.
Following: "(16)" on line 16
Strike: remainder of line 16 through "helper" on line 17
Insert: "riding outside a motor vehicle to assist in transporting or delivering goods"

6. Page 14, lines 12 through 22.
Strike: section 11 in its entirety
Renumber: subsequent sections

7. Page 15, lines 5 and 6.
Following: "employment" on line 5
Strike: remainder of line 5 through "certificates" on line 6
Insert: "records"
Following: "employer" on line 6
Strike: remainder of line 6

-END-

SENATE STANDING COMMITTEE REPORT

February 10, 1993

MR. PRESIDENT:
We, your committee on Labor and Employment Relations having had under consideration Seante Bill No. 256 (first reading copy -- white), respectfully report that Seante Bill No. 256 be amended as follows and as so amended do pass.

Signed: Thomas E. Towe
Senator Thomas E. "Tom" Towe, Chair

That such amendments read:

1. Title, lines 5 and 6.
Strike: "DRIVER" on line 5 through "STATE" on line 6

2. Title, line 7.
Following: "STATE";"
Insert: "PROVIDING FOR ELECTION OF COVERAGE FOR CERTAIN NONRESIDENTS;"
Strike: the first "AND"

3. Title, line 8.
Following: "MCA"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

4. Page 8, lines 3 through 7.
Following: "(c)"
Strike: remainder of line 3 through "state" on line 7
Insert: "a nonresident of Montana who does not meet the requirements of subsection (6)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:
(i) nonresident employees are hired in Montana;
(ii) nonresident employees' wages are paid in Montana;
(iii) nonresident employees are supervised in Montana; and
(iv) business records are maintained in Montana.
(7) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection (6)(b) or (6)(c) as a condition of approving the election under subsection (6)(c)"

5. Page 8, line 14.
Following: line 13
Insert: "NEW SECTION. Section 4. Effective date. [This act] is effective July 1, 1993."

-END-

m - Amd. Coord.
Sec. of Senate

331121SC.Sma

SENATE STANDING COMMITTEE REPORT

February 10, 1993

MR. PRESIDENT:
We, your committee on Labor and Employment Relations having had under consideration Senate Bill No. 270 (first reading copy -- white), respectfully report that Senate Bill No. 270 be amended as follows and as so amended do pass.

Signed: Thomas E. Towe
Senator Thomas E. "Tom" Towe, Chair

That such amendments read:

1. Page 4, lines 11 through 14.
Following: "types" on line 11
Strike: remainder of line 11 through "10%" on line 14

-END-

m - Amd. Coord.
DV Sec. of Senate

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. #1
DATE 2/9/93
BILL NO. SB 256

Proposed Amendments to Senate Bill 256
From the State Compensation Mutual Insurance Fund

1. Page 8, lines 3 through 7
Strike: subsection (c) in it's entirety
Insert: "(c) a non-resident of Montana who doesn't meet the requirements of 6 (b), if the employer elects coverage, the insurer allows such an election and the employer meets all the following :

i) the employees are hired in Montana;
ii) the wages are paid from Montana;
iii) the employees are supervised from Montana; and;
iiii) the business records are maintained in Montana.
A) An insurer may require coverage for all non-resident employees of a Montana employer that do not meet 6 (b) or 6 (c) as a condition of approving the election."

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. #2
DATE 2/9/93
BILL NO. SB 256

TESTIMONY ON SB 256 BEFORE
THE SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE
FEBRUARY 9, 1993

PRESENTED BY:
MIKE MICONE
MONTANA MOTOR CARRIERS ASSOCIATION

Mr. Chairman and members of the committee. For the record, my name is Mike Micone, representing the Montana Motor Carriers Association. We are here today to ask for your concurrence of SB 256, an act that clarifies the definition of a nonresident driver and working for a Montana company.

The problem was created in the 1991 Legislature with the adoption of SB 383, defining an employee in this state as it applies to a resident and a nonresident of Montana. As interpreted by the State Fund, the definition of a nonresident employee resulted in disallowing nonresident driver employees Workers' Compensation coverage when previous to the change in the law coverage for these employees was allowed.

Many nonresident drivers of Montana carriers who drive in several states end up performing their principal work duties in Montana. The State Fund interpreted the law to mean a "majority" of a nonresident driver's time had to be spent in the state and disallowed claims on that basis.

The interstate common and contract motor carrier industry is a unique group of employers having both resident and non resident drivers operating in multiple states throughout the United States. The risks are the same regardless of residence and both types of employees are "controlled and employed by a Montana employer."

MMCA is asking the 1993 Legislature to amend the law to cover nonresident drivers of Montana based carriers. The key element in the amendment is on page 8, lines 3 through 7. It reads:

> (c) A nonresident of Montana who is employed as a driver by an interstate common or contract carrier based in and doing business in this state, whose employment duties area controlled from Montana by the motor carrier, and who is dispatched from this state.

The intent is that the nonresident driver will be similar to the conditions set out for a resident in the law, namely, "controlled within this state."

As a result of the State Fund interpretation of the law, MMCA surveyed carriers as to the number of nonresident drivers employed by their firms. Wages paid to some known 278 MMCA member nonresident drivers amounted to approximately $7 million per year based on an average of $25,000 per driver per year. The new current state fund rate is $26.26 per $100 of wages, for over-the-road drivers with towing units under classification 7219. The potential loss of premium based on the rate effective January 1, 1993 to the State Fund, now being paid by these employers, is estimated to be $1,838,200 annually.

SB 256 will ensure, not only that drivers working for Montana carriers have adequate coverage, but also that a significant premium continues to be received by the State Fund.

We urge your concurrence of SB 256.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 3
DATE 2/9/93
BILL NO. SB 270

DEPARTMENT OF LABOR AND INDUSTRY

COMMISSIONER'S OFFICE

MARC RACICOT, GOVERNOR

P.O.BOX 1728

STATE OF MONTANA

(406) 444-3555
FAX (406) 444-1394

HELENA, MONTANA 59624

SB270
TESTIMONY OF DEPARTMENT OF LABOR & INDUSTRY
SUPPORTING

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE EMPLOYMENT SECURITY ACCOUNT; AUTHORIZING THE DEPARTMENT OF LABOR AND INDUSTRY TO TRANSFER UNAPPROPRIATED FUNDS IN THE EMPLOYMENT SECURITY ACCOUNT TO THE UNEMPLOYMENT INSURANCE FUND; AUTHORIZING THE DEPARTMENT OF LABOR AND INDUSTRY TO TRANSFER MONEY BETWEEN FUND TYPES; AMENDING SECTION 39-51-404, MCA; AND PROVIDING AN EFFECTIVE DATE."

BACKGROUND: The Unemployment Insurance Administrative Tax is an employer payroll tax equal to .1% of payroll. The tax was enacted in the 1983 legislative session. Its original purpose was to hold employment security services harmless in the face of potential federal cutbacks, to prevent closure of Job Service Offices in rural communities. Over the years this tax has been appropriated by the legislature for other employment and training programs as well.

PURPOSE: This bill seeks to address technical issues in the law that have been identified in the budgeting process and in past audits. Specifically, the bill does four things:

1. Eliminates language describing how the U.I. Administrative Tax funds can be used. All of this language has been substantially superseded in the general appropriations act (1991 HB2).

2. Changes the designation of the UI Admin Tax account from "federal special revenue" to "state special revenue." This change is in accordance with generally accepted accounting procedures.

3. Describes a procedure for transferring excess UI Admin Tax funds into the Unemployment Insurance Trust Fund account to pay UI claims. Current law has been subject to differing interpretations.

4. Allows for shifting between fund source not to exceed total appropriated budget. UI Admin tax is used to hold Job Service harmless in the event of federal cutbacks. However, the federal fiscal year begins three months after the state fiscal year. This provision allows adjustment between the federal funding source and the UI Admin tax funding source if the federal funding source varies from estimates by 10% or less.

SUMMARY: This bill cleans up and clarifies management of the UI Admin Tax. For this reason the Department of Labor & Industry urges DO PASS SB270. For more information call Laurie Ekanger or Brian McCullough at 444-3555.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 4
DATE 2/9/93
BILL NO. SB 163

Amendments to Senate Bill No. 163
First Reading Copy

For the Senate Labor Committee
Prepared by Eddye McClure
February 1, 1993

1. Page 3, line 3.
Following: "aid"
Strike: "a policyholder, management, or an employer"
Insert: "an insured employer"

2. Page 3, line 15.
Following: "to"
Strike: "policyholders or employers"
Insert: "an insured employer"

3. Page 3, line 21.
Following: "advise"
Insert: "insured"

4. Page 3, line 22.
Following: "the"
Strike: "policyholder's"
Insert: "insured employer's"

5. Page 4, line 4.
Following: "**activities.**"
Insert: "(1)"

6. Page 4, line 6.
Strike: "(1)"
Insert: "(a)"

7. Page 4, line 9.
Strike: "(2)"
Insert: "(b)"

8. Page 4, line 14.
Strike: "(a)"
Insert: "(i)"

9. Page 4, line 16.
Strike: "(b)"
Insert: "(ii)"

10. Page 4, line 18.
Strike: "(c)"
Insert: "(iii)"

11. Page 4, line 21.
Following: line 20
Insert: "(2) An employer who employs temporary workers shall include those workers in the employer's safety program. A temporary services contractor shall provide a safety program

for employees not employed by other employers."

12. Page 5, line 11.
Following: "comprehensive"
Insert: "and effective"

13. Page 5, line 23.
Strike: "policyholder or employer"
Insert: "insured employer"

14. Page 6, line 4.
Following: "its"
Strike: remainder of line 4
Insert: "insured"

15. Page 6, line 9.
Following: line 8
Strike: "policyholder's or"
Insert: "insured"

16. Page 6, line 12.
Following: "to"
Insert: "insured"

17. Page 6, line 15.
Following: "each"
Strike: "policyholder or"
Insert: "insured"

18. Page 6, lines 23 and 24.
Following: "years" on line 23
Strike: remainder of line 23 through "commissioner" on line 24

19. Page 7, line 9.
Following: "vacancy"
Strike: remainder of line 9 through "expires"

20. Page 9, line 6.
Following: "**program**"
Insert: "**-- expenditure accounting**"

21. Page 9, line 18.
Following: line 17
Strike: "an insurer's"
Insert: "the"

22. Page 9, line 25.
Following: line 24
Insert: "(3) The state fund shall separately account for money expended under [sections 1 through 11 and 39-71-2311]."

23. Page 10, line 4.
Following: line 3
Strike: "policyholders or"
Insert: "insured"

EXHIBIT 5
DATE 2-9-93
SB 256

That such amendments read:

1. Title, lines 5 and 6.
Strike: "DRIVER" on line 5 through "STATE" on line 6

2. Title, line 7.
Following: "STATE";"
Insert: "PROVIDING FOR ELECTION OF COVERAGE FOR CERTAIN NONRESIDENTS;"
Strike: the first "AND"

3. Title, line 8.
Following: "MCA"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

4. Page 8, lines 3 through 7.
Following: "(c)"
Strike: remainder of line 3 through "state" on line 7
Insert: "a nonresident of Montana who does not meet the requirements of subsection (6)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:
(i) nonresident employees are hired in Montana;
(ii) nonresident employees' wages are paid in Montana;
(iii) nonresident employees are supervised in Montana; and
(iv) business records are maintained in Montana.
(7) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection (6)(b) or (6)(c) as a condition of approving the election under subsection (6)(c)"

5. Page 8, line 14.
Following: line 13
Insert: "NEW SECTION. Section 4. Effective date. [This act] is effective July 1, 1993."

-END-

m- Amd. Coord.
Sec. of Senate

331121SC.Sma

That such amendments read:

1. Page 1, line 11.
Following: "section"
Strike: "13"
Insert: "12"

EXHIBIT 6
DATE 2-9-93
SB 223

2. Page 1, line 18.
Page 1, line 20.
Page 3, line 21.
Page 3, line 24.
Page 15, line 1.
Page 15, line 2.
Page 15, line 5.
Page 15, line 7.
Page 15, line 9.
Page 15, line 12.
Page 15, line 14.
Page 15, line 16.
Page 15, line 19.
Page 15, line 21.
Page 16, line 2.
Page 16, line 5.
Following: "through"
Strike: "14"
Insert: "13"

3. Page 7, line 24.
Following: "a"
Strike: remainder of line 24

4. Page 7, line 25.
Following: "apparatus"
Insert: ", except for a freight elevator permitted for use under the child labor provisions of the federal Fair Labor Standards Act of 1938"

5. Page 8, lines 16 and 17.
Following: "(16)" on line 16
Strike: remainder of line 16 through "helper" on line 17
Insert: "riding outside a motor vehicle to assist in transporting or delivering goods"

6. Page 14, lines 12 through 22.
Strike: section 11 in its entirety
Renumber: subsequent sections

7. Page 15, lines 5 and 6.
Following: "employment" on line 5
Strike: remainder of line 5 through "certificates" on line 6
Insert: "records"
Following: "employer" on line 6
Strike: remainder of line 6

-END-

DATE 2-9-93

SENATE COMMITTEE ON Labor Committee

BILLS BEING HEARD TODAY: SB 256

SB 270

Name	Representing	Bill No.	Check One Support	Oppose
Mike Micone	MTCA	256	X	
George Wood	MT Self Insurers Assn.	256	X	
Jerry Klein	SCMIF	~~HB~~		
Jim Murphy	State Fund	256	X	
Laurie Lamson	Labor & Industry	270	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

SENATE JOURNAL

OF THE

FIFTY-THIRD LEGISLATURE

OF THE

STATE OF MONTANA

In Regular Session

January 4 through April 24, 1993

Fred Van Valkenburg
President of the Senate

Claudia Clifford
Secretary of the Senate

Becky Barnhart
Journal Clerk

Published by

Montana Legislative Council

Room 138
State Capitol
Helena, MT 59620

Robert B. Person
Executive Director

Terri Brock
Proofreader

Kevin Hayes
Typesetting

Strike: section 11 in its entirety
Renumber: subsequent sections

7. Page 15, lines 5 and 6.
Following: "employment" on line 5
Strike: remainder of line 5 through "certificates" on line 6
Insert: "records"
Following: "employer" on line 6
Strike: remainder of line 6

And, as amended, do pass. Report adopted unanimously.

SB 256, introduced bill, be amended as follows:

1. Title, lines 5 and 6.
Strike: "DRIVER" on line 5 through "STATE" on line 6

2. Title, line 7.
Following: "STATE";"
Insert: "PROVIDING FOR ELECTION OF COVERAGE FOR CERTAIN NONRESIDENTS;"
Strike: the first "AND"

3. Title, line 8.
Following: "MCA"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

4. Page 8, lines 3 through 7.
Following: "(c)"
Strike: remainder of line 3 through "state" on line 7
Insert: "a nonresident of Montana who does not meet the requirements of subsection (6)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:

(i) nonresident employees are hired in Montana;
(ii) nonresident employees' wages are paid in Montana;
(iii) nonresident employees are supervised in Montana; and
(iv) business records are maintained in Montana.

(7) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection (6)(b) or (6)(c) as a condition of approving the election under subsection (6)(c)"

5. Page 8, line 14.
Following: line 13
Insert: "NEW SECTION. Section 4. Effective date. [This act] is effective July 1, 1993."

And, as amended, do pass. Report adopted unanimously.

SB 270, introduced bill, be amended as follows:

1. Page 4, lines 11 through 14.
Following: "types" on line 11

Strike: remainder of line 11 through "10%" on line 14

And, as amended, do pass. Report adopted unanimously.

LOCAL GOVERNMENT (Kennedy, Chair): 2/10/93
SB 189, introduced bill, be amended as follows:

1. Title, line 7.
Following: ";"
Insert: "ELIMINATING THE REQUIREMENT THAT THE DEPARTMENT OF REVENUE AND THE COUNTY TREASURER KEEP RECORDS OF THE SEPARATION OF THE TAXES BETWEEN THE PORTION OF THE PROPERTY BEING SOLD AND THE REMAINING PARCELS;"
Following: "7-4-2613"
Insert: ", 15-8-702,"

2. Page 4.
Following: line 1
Insert: "Section 2. Section 15-8-702, MCA, is amended to read:
"15-8-702. Persons desiring to be listed. ~~(1)~~ Lands once described on the assessment book need not be described a second time, but any person claiming the same and desiring to be assessed therefor may have ~~his~~ the person's name inserted with that of the person to whom such land is assessed.
~~(2) When the owner of one or more parcels of real property conveys a portion of his interests to a buyer in a recorded transaction, the buyer may require the county treasurer to accept payment from the buyer on such portion of the taxes already levied against such property as may then be due and payable. The department of revenue or its agent shall cooperate with and assist the buyer and the county treasurer in keeping necessary records of the separation or division of a parcel or parcels listed together on the assessment lists.~~""
Renumber: subsequent sections

3. Page 5, line 22.
Following: "taxes"
Insert: "and special assessments"

4. Page 6, lines 7 and 9.
Strike: "3"
Insert: "4"

And, as amended, do pass. Report adopted unanimously.

SB 215, introduced bill, be amended as follows:

1. Title, line 6.
Strike: "AND"

2. Title, line 7.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Vice Chairman Gary Feland, on March 4, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Tom Nelson, Chair (R)
Rep. Gary Feland, Vice Chair (R)
Rep. Steve Benedict (R)
Rep. Vicki Cocchiarella (D)
Rep. Jerry Driscoll (D)
Rep. Alvin Ellis (R)
Rep. Pat Galvin (D)
Rep. Sonny Hanson (R)
Rep. Norm Mills (R)
Rep. Bob Pavlovich (D)
Rep. Bruce Simon (R)
Rep. Carolyn Squires (D)
Rep. Bill Tash (R)
Rep. Rolph Tunby (R)
Rep. Carley Tuss (D)
Rep. Tim Whalen (D)

Members Excused: None

Members Absent: None

Staff Present: Susan Fox, Legislative Council
Cherri Schmaus, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 207, SB 256 & SB 270
Executive Action: SB 160, SB 184, SB 270 & SB 207

HEARING ON SB 256

Opening Statement by Sponsor:

SEN. CHARLES SWYSGOOD, SD 37, Madison and Beaverhead Counties, sponsor, opened on SB 256 by addressing the situation that

occurred in the department regarding nonresident workers with workers' compensation. He stated that this bill is similar to SB 383 that passed in the last session. The definition of resident originally was put in for interstate drivers not covered by workers' compensation.

Proponents' Testimony:

Mike Micone, Montana Motor Carriers Association, referred to page 8, line 3 through 20 and stated that this section was intended to include employers in plan 1, 2, and 3. He distributed written testimony to the committee. **EXHIBIT #1**

Nancy Butler, General Councel for the State Fund, stated that her organization wants to be on the record in support of SB 256.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. GALVIN asked Mike Micone if these employees and employers pay taxes on income taxes in Montana?

Mike Micone responded that he is not an expert in that field. He then referred him to Mr. Capdeville. Mr. Capdeville stated that he could not answer the question either.

REP. MILLS asked Mr. Micone if this results in any added revenue brought into the State Fund and if so, how much?

Mr. Micone responded that now the State Fund endorses these policies. Nonresidents are covered until the end of June this year. He stated that there will be no added revenue, but there will not be a loss either.

REP. DRISCOLL asked Mr. Micone if other states require the driver to buy a policy in their state, what effect would this effect have on those drivers who are residents of Montana? Do they pay twice?

Mr. Micone replied that he currently does not know of any states that have this law, but if they did, the carrier would need to carry two policies.

REP. DRISCOLL asked **SEN. SWYSGOOD** if he would object to an amendment that would not allow Montana to make the individual be covered if they already had to be covered in another state.

SEN. SWYSGOOD replied that he does not believe that this will be a problem, because the these individuals are hired, paid and supervised in Montana.

Closing by Sponsor:

SEN. SWYSGOOD closed on SB 256.

HEARING ON SB 207

Opening Statement by Sponsor:

SEN. BILL WILSON, Senate District 19, Cascade, sponsor, opened on SB 207 by stating that this bill requires the Department of Labor to revise the Montana wage protection laws. He referred to page 2, line 23. This line changes the ceiling from 100 percent to 110 percent. This ceiling allows the Department of Labor to use their own discretion; furthermore, this would eliminate the decision by the sheriff department. This bill will provide a faster, simpler way for employers to pay their employees.

Proponents' Testimony:

John Andrew, Department of Labor, testified that in the past, employees and employers both brought problems to the department. This bill will allow service by mail which will expedite the claims method.

Darrell Holzer, Montana State AFL-CIO, testified that this bill is a positive step because it will allow the employees to get their money sooner. Mr. Holzer stated that his organization would like to be on record in support of SB 207.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. PAVLOVICH asked Mr. Andrews if the state of Washington has the same provision as this bill would provide for Montana?

Mr. Andrews replied that he believes they do.

REP. DRISCOLL asked Mr. Andrew to refer to section 2. He asked why there is no interest in amending five percent per day like it used to be?

Mr. Andrews replied that the penalty provision was changed. The language has changed the law to 110 percent.

REP. DRISCOLL asked Mr. Andrews which penalties have been collected since last session.

Mr. Andrews stated that the penalty goes to the employee.

REP. COCCHIARELLA asked Mr. Andrew to refer to the amendment on page 4, line 14. His concern is with the language. The language suggests that registered mail should be used. She asked if the sheriff's department was paid when they delivered the letters?

Mr. Andrew replied that the cost of registered mail is expensive.

Furthermore, the amount of mail sent is approximately 3000 which would cause an additional cost of $7,000.

REP. COCCHIARELLA asked Mr. Andrew if they paid the sheriff department when they delivered the letters?

Mr. Andrew replied that the sheriff's department was not an additional cost, but an additional step. Lewis and Clark County Sheriffs Department stated that the cost is approximately $29 per delivery.

REP. COCCHIARELLA asked Mr. Andrew in the past, if they absorbed the $29 cost, but now they can't absorb $2.35 to send them registered mail?

Mr. Andrew replied that in the past, the sheriff department picked up the cost. Furthermore, the hearing notices that used to be sent out, are now eliminated.

REP. GALVIN asked **SEN. WILSON** if this bill applies to rail workers.

SEN. WILSON replied no.

Closing by Sponsor:

SEN. WILSON closed on SB 207 by referring to page 2, line 23.

HEARING ON SB 270

Opening Statement by Sponsor:

SEN. THOMAS KEATING, Senate District 44, Yellowstone County, sponsor, opened on SB 270. The purpose of SB 270 is to establish employment security accounts and allow fund transfers. The Department of Labor requested this bill to clean-up the current system.

Proponents' Testimony:

Brian Macula, Department of Labor, testified that his organization would like to be on the record in support of SB 270.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. BENEDICT asked **SEN. KEATING** if the objective of the amendment is to amend something into the UI administration tax?

SEN. KEATING replied that they could try this procedure, but it is not safe. The UI administration tax is used to fund Job Service.

REP. BENEDICT stated that Job Services are no longer in danger of closing, so why do they need this money?

SEN. KEATING replied that this is true; however, in 1981 several Job Services were salvaged and kept open because of the UI administration tax.

REP. BENEDICT asked if he could propose an amendment that would require the other half to also go to UI, JTPA, or MECA?

SEN. KEATING agreed with **REP. BENEDICT**, but stated that it probably would not be passed.

REP. DRISCOLL asked **SEN KEATING** if the tax is repealed, will the schedule return back to what it used to be?

SEN. KEATING replied that the trust fund is solvent, but the UI administration tax is still being used for Job Service.

REP. DRISCOLL asked **SEN. KEATING** if the Governor could order all the money to be put into the UI trust fund each month?

SEN. KEATING replied that under the present law, this is correct.

REP. DRISCOLL told **SEN. KEATING** that the balance could be put into the trust fund, but not the tax itself.

Closing by Sponsor:

SEN. KEATING closed on SB 70.

EXECUTIVE ACTION ON SB 91

Motion: **REP. SIMON MOVED SB 91 BE CONCURRED IN.**

Discussion: **REP. BENEDICT** stated that he is in support of the bill, because these inmates employers are already paying for workers' compensation benefits. Furthermore, they return to jail if they can't pay their bills.

REP. TUNBY stated that he is in support of SB 91 because everyone would be better off.

REP. SIMON stated that in order to receive benefits, the inmates must have a job in the private sector that provides workers' compensation. If these inmates are injured at work, they are covered by medical; however, they lose their rights to prerelease until they can return to work full-time.

REP. TASH stated that he is in support of SB 91 for the same reason stated above. He stated that the inmates in prerelease have more potential for rehabilitation than those incarcerated.

REP. HANSON stated that this problem with hurt inmates does not

include large numbers. Furthermore, anyone drawing workers' compensation can go to court and still draw for preexisting conditions.

REP. HANSON stated that the judge makes the decision of who goes to the prerelease centers.

REP. ELLIS stated that the meat of SB 91 is the change in the definition of who is entitled to benefits.

Susan Fox stated that inmates in prerelease are still considered incarcerated.

REP. DRISCOLL stated that if these inmates go to the prerelease, they must look for work, if they don't find work in a certain amount of time, they return to the prison. He stated that his concern is with those inmates hurt prior to going into prison who are cut of their current benefits.

REP. HANSON moved the amendment on page 6, line 7 through 9, so that it does not cover preexisting conditions.

Susan Fox referred to line 20 after the words "work related injury" to add "residential prerelease". This language would mean that the injury must be received while in the program.

REP. PAVLOVICH moved the amendment.

REP. COCCHIARELLA stated that she is concerned that those under house arrest would not be covered if this language was changed.

REP. SIMON moved that the executive action on SB 91 be deferred until a later date.

EXECUTIVE ACTION ON SB 160

Motion: REP. HANSON MOVED SB 160 DO BE CONCURRED IN.

Discussion: CHAIRMAN NELSON explained the proposed amendments, dated March 2, 1993 by Eddy McClure, to the committee.

Mr. Anderson explained #3 of the amendments to the committee by their request. He stated that this amendment covers IBM employees who borrow or steal software and use it for their own personal use.

REP. BENEDICT asked Mr. Anderson what does computer software have to do with SB 160?

Mr. Anderson replied that IBM has experienced problems with their employees taking the software home. This software is considered a lawful product.

REP. WHALEN asked Mr. Anderson if amendment #3 is needed even

with the definition of a lawful product in amendment #1.

REP. SQUIRES read the title of the bill and stated that software does not really fit into the title of SB 160.

REP. HANSON stated that this bill does not exclude marketable products.

REP. MILLS stated that if these employees take home the software, it is illegal use of a lawful product.

REP. TUNBY stated that he feels the committee should visit with the sponsor before voting on SB 160.

REP. WHALEN moved to separate the amendments and vote on them separately. The question was called on #1 and #2 of the amendments. The motion to do pass amendment #1 and #2 **CARRIED** unanimously.

REP. HANSON moved amendment #3. The question was called on #3. The motion to do pass **FAILED** by a vote of 7 to 9.

REP. SQUIRES moved the amendments dated February 10, 1993 by Eddy McClure.

REP. PAVLOVICH called the question on the February 10, 1993 amendment. The motion to do pass **CARRIED** unanimously.

REP. ELLIS move the amendments dated March 4, 1993 prepared by Susan Fox.

REP. DRISCOLL stated that the language in this amendment could get an employee fired if they drink at all.

REP. COCCHIARELLA addressed page 2, line 13.

REP. BENEDICT called for the question on the March 4, 1993 amendments. The motion to do pass **FAILED** unanimously.

REP. SQUIRES MOVED SB 160 BE CONCURRED IN AS AMENDED. The question was called. A voice vote was taken. The motion to BE CONCURRED IN AS AMENDED **CARRIED** 15 to 1, with **REP. MILLS** voting no.

EXECUTIVE ACTION ON SB 184

Motion: REP. SIMON MOVED SB 184 BE CONCURRED IN.

Discussion: REP. SIMON stated that the newspaper is concerned because the current language would put minors in a situation where they could sign for their own rights. This bill makes sure the parents must also sign.

Motion/Vote: REP. PAVLOVICH MOVED THE AMENDMENT DATED MARCH 2,

1993. The question was called. The motion to do pass **CARRIED** unanimously. The question was called on SB 184, the motion to DO BE CONCURRED IN AS AMENDED **CARRIED.**

EXECUTIVE ACTION ON SB 270

Motion: **REP. PAVLOVICH MOVED SB 270 DO CONCUR.**

Discussion: None

Motion/Vote: The question was called. A voice vote was taken. The motion to DO CONCUR **CARRIED** 13 to 3, with **REP. MILLS, DRISCOLL AND COCCHIARELLA** voting no.

EXECUTIVE ACTION ON SB 207

Motion: **REP. COCCHIARELLA MOVED SB 207 DO BE CONCURRED IN.**

Discussion: **REP. COCCHIARELLA** offered an amendment and referred to page 8, line 23.

Chuck Hunter, by the request of the committee, stated that the current language gives the department of labor the ability to range from 0 to 100 percent.

Motion/Vote: The question was called on the Cocchiarella amendment. The motion to DO PASS **FAILED**. The question was called on SB 207. The motion to DO BE CONCURRED IN **CARRIED** with **REP. WHALEN AND MILLS** voting no.

ADJOURNMENT

Adjournment: **CHAIRMAN NELSON** adjourned the meeting at 4:40.

TOM NELSON, Chair

CHERRI SCHMAUS, Secretary

TN/CS

HOUSE OF REPRESENTATIVES

LABOR COMMITTEE

ROLL CALL DATE 3/4/93

NAME	PRESENT	ABSENT	EXCUSED
REP. TOM NELSON, CHAIRMAN	✓		
REP. GARY FELAND, VICE CHAIRMAN	✓		
REP. STEVE BENEDICT	✓		
REP. VICKI COCCHIARELLA	✓		
REP. JERRY DRISCOLL	✓		
REP. ALVIN ELLIS	✓		
REP. PAT GALVIN	✓		
REP. SONNY HANSON	✓		
REP. NORM MILLS	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CAROLYN SQUIRES	✓		
REP. BILL TASH	✓		
REP. ROLPH TUNBY	✓		
REP. CARLEY TUSS	✓		
REP. TIM WHALEN	✓		

HOUSE STANDING COMMITTEE REPORT

March 5, 1993
Page 1 of 1

Mr. Speaker: We, the committee on Labor report that Senate Bill 160 (third reading copy -- blue) be concurred in as amended .

Signed: _____
Tom Nelson, Chair

And, that such amendments read: Carried by: Rep. Pavlovich

1. Page 1, line 13.
Following: line 12
Insert: "(1) For purposes of this section, "lawful product" means a product that is legally consumed, used, or enjoyed and includes food, beverages, and tobacco.
Following: "subsections"
Strike: "(2) and (3)"
Insert: "(3) and (4)"
Renumber: subsequent subsections

2. Page 1, line 20.
Strike: "(1)"
Insert: "(2)"

3. Page 5, line 5
Following: "reason"
Insert: ", unless the employer acts within the provisions of [section 1(3) or (4)]"

-END-

Committee Vote:
Yes 17, No /___.

501307SC.Hpf

HOUSE STANDING COMMITTEE REPORT

March 5, 1993

Mr. Speaker: We, the committee on Labor report that Senate Bill 184 (third reading copy -- blue) be concurred in as amended.

Signed: _____
Tom Nelson, Chair

And, that such amendments read: Carried by: Rep. Benedict

1. Title, lines 6 through 8.
Following: ";" on line 6
Strike: the remainder of line 6 through ";" on line 8

2. Page 4, line 14.
Following: "~~minor~~"
Insert: "or a parent or guardian of the person performing the services in the case of a minor"

3. Page 4, line 15.
Following: "~~and~~"
Insert: "the person performing the services and"

-END-

Committee Vote:
Yes 14, No ___.

501313SC.Hpf

HOUSE STANDING COMMITTEE REPORT

March 5, 1993

Mr. Speaker: We, the committee on Labor report that Senate Bill 270 (third reading copy -- blue) be concurred in .

Signed: _____
Tom Nelson, Chair

Carried by: Rep. Gilbert

Committee Vote:
Yes 13, No 3 .

501320SC.Hpf

HOUSE STANDING COMMITTEE REPORT

March 5, 1993

Mr. Speaker: We, the committee on Labor report that Senate Bill 207 (third reading copy -- blue) be concurred in .

Signed: _____
Tom Nelson, Chair

Carried by: Rep. Mills

Committee Vote:
Yes 14, No 2.

501321SC.Hpf

EXHIBIT 4 1
DATE 3/4/93
~~HB~~ SB 256

TESTIMONY ON SB 256 BEFORE
THE HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE
MARCH 4, 1993
MIKE MICONE, MONTANA MOTOR CARRIERS ASSOCIATION

Mr. Chairman. Members of the Committee. For the record I am Mike Micone, representing the Montana Motor Carriers Association. We are here today to ask for your concurrence of SB 256, an act that clarifies the definition of a nonresident driver and working for a Montana company.

The problem was created in the 1991 Legislature with the adoption of SB 383, defining an employee in this state as it applies to a resident and a nonresident of Montana. As interpreted by the State Fund, the definition of a nonresident employee resulted in disallowing nonresident driver employees Workers' Compensation coverage when previous to the change in the law coverage for these employees was allowed.

Many nonresident drivers of Montana carriers who drive in several states end up performing their principal work duties in Montana. The State Fund interpreted the law to mean a "majority" of a nonresident driver's time had to be spent in the state and disallowed claims on that basis.

The interstate common and contract motor carrier industry is a unique group of employers having both resident and non resident drivers operating in multiple states throughout the United States. The risks are the same regardless of residence and both types of employees are"controlled and employed by a Montana employer."

MMCA is asking the 1993 Legislature to amend the law to cover nonresident drivers of Montana based carriers. The key element in the amendment is on page 8, lines, 3 through 20. The intent is that the nonresident driver will be similar to the conditions set out for a resident in the law, namely, "controlled within this state."

As a result of the State Fund interpretation of the law, MMCA surveyed carriers as to the number of nonresident drivers employed by their firms. Wages paid to some known 278 MMCA member nonresident drivers amounted to approximately $7 million per year based on an average of $25,000 per driver per year. The new current state fund rate is $26.26 per $100 of wages, for over-the-road drivers with towing units under classification 7219. The potential loss of premium based on the rate effective January 1, 1993 to the State Fund, now being paid by these employers, is estimated to be $1,838,200 annually.

SB 256 will ensure, not only that drivers working for Montana carriers have adequate coverage, but also that a significant premium continues to be received by the State Fund.

We urge your concurrence of SB 256.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Labor COMMITTEE BILL NO. SB 162

DATE 3/2/05 SPONSOR(S) SK Good

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
John L. King	State Fund	X	
Nancy Butler	" "	X	
Mike Miconge	MMCA	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

FAD COMMITTEE BILL NO. SB 217

DATE 2/14/05 SPONSOR(S) WILSON

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
John Andrew	Dept. of Labor	X	
Darrell Holzer	MT. St. AFL-CIO	X	
Wm Egan	MT Conf Elect Wkrs.	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

LABOR COMMITTEE BILL NO. SB 270

DATE 2/4/93 SPONSOR(S) KEATING

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
BRIAN McCullough	Exxon	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.